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NO. 1881 P. 1

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Date: February 10, 2006	Phone Number	Fax Number
To: Board of Patent Appeals		(571) 273-8300
From: Kevin J. Zilka		

Docket No.: NAI1P344_01.249.01

App. No: 10/028,412

Total Number of Pages Being Transmitted, Including Cover Sheet: 38

<p>Message:</p> <p>Please deliver to the Board of Patent Appeals.</p> <p>Thank you, Kevin J. Zilka</p>

☐ Original to follow Via Regular Mail ☒ Original will Not be Sent ☐ Original will follow Via Overnight Courier

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February 10, 2006

FEB 10 2006

Practitioner's Docket No. NAI1P344/01.249.01

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Alex J. Hinchliffe et al.

Application No.: 10/028,412

Group No.: 2143

Filed: 12/21/2001

Examiner: Dennison, Jerry

For: DESKTOP SECURITY IN PEER-TO-PEER NETWORKS

Mail Stop Appeal Briefs - Patents

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

TRANSMITTAL OF APPEAL BRIEF
(PATENT APPLICATION--37 C.F.R. § 41.37)

1. This brief is in furtherance of the Notice of Appeal filed September 13, 2005, a substitute for the Appeal Brief filed October 13, 2005, and in response to the Notification of Non-Compliant Appeal Brief mailed on January 20, 2006.

2. STATUS OF APPLICANT

This application is on behalf of other than a small entity.

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*

*(When using Express Mail, the Express Mail label number is mandatory;
Express Mail certification is optional.)*

I hereby certify that, on the date shown below, this correspondence is being:

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☐ deposited with the United States Postal Service in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

37 C.F.R. § 1.8(a)

☐ with sufficient postage as first class mail.

37 C.F.R. § 1.10*

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Date:

2/10/2006

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Erica L. Farlow

(type or print name of person certifying)

* Only the date of filing (' 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under ' 1.8 continues to be taken into account in determining timeliness. See ' 1.703(f). Consider "Express Mail Post Office to Addressee" (' 1.10) or facsimile transmission (' 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

Transmittal of Appeal Brief--page 1 of 2

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NO. 1881 P. 3

FEB 10 2006**3. FEE FOR FILING APPEAL BRIEF**

Pursuant to 37 C.F.R. §1.17(c), the fee for filing the Appeal Brief has already been paid. However, the Commissioner is authorized to charge any fees that may be due to deposit account 50-1351 (NAI1P344).

4. EXTENSION OF TERM

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136 apply.

Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

5. TOTAL FEE DUE

The total fee due is:

Appeal brief fee	\$0.00 (previously paid on October 13, 2005)
Total Fee Due	\$0.00

6. FEE PAYMENT

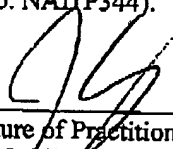
Applicant believes that only the above fees are due in connection with the filing of this paper because the appeal brief fee was paid with a previous omission. However, the Commissioner is authorized to charge any additional fees that may be due (e.g. for any reason including, but not limited to fee changes, etc.) to deposit account 50-1351 (Order No. NAI1P344).

A duplicate of this transmittal is attached.

7. FEE DEFICIENCY

If any additional extension and/or fee is required, and if any additional fee for claims is required, charge Deposit Account No. 50-1351 (Order No. NAI1P344).

Reg. No.: 41,429
Tel. No.: 408-971-2573
Customer No.: 28875



Signature of Practitioner
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Transmittal of Appeal Brief—page 2 of 2

FEB 10 2006

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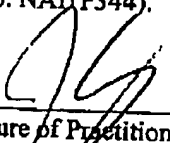
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Transmittal of Appeal Brief—page 2 of 2

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www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,412	12/21/2001	Alex J. Hinchliffe		3596
7590	01/20/2006			
Zilka-Kotab PC PO Box 721120 San Jose, CA 95172-1120				
EXAMINER				
ART UNIT		PAPER NUMBER		

DATE MAILED: 01/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

FEB 10 2006

**Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)**

Application No.

10/028,412

Applicant(s)

HINCHLIFFE ET AL.

Examiner

J. Bret Dennison

Art Unit

2143

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 13 October 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

Page 1 of the brief states that the brief is being filed under the 41.37 New Rules of Practice Before the BPAI, however, the brief is one of the appendix headings required under 37 CFR 41.37(c) (appendix headings (x.) Related Proceedings Appendix). The new rules require all of the appendix headings whether there is information pertaining to a specific heading or not, and if not, the word "None" should be placed below the respective heading.

WCV

Pertaining

Wm. C. Vaughn, Jr.
WILLIAM C. VAUGHN, JR.
PRIMARY EXAMINER